

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**IN RE:**

**STEVEN GLYNNERIC FULSTONE,  
Debtor.**

**CASE NO. 19-30241  
CHAPTER 7**

**NOTICE OF MOTION OF THE HUNTINGTON NATIONAL BANK  
TO MODIFY AUTOMATIC STAY**

NOTICE IS HEREBY GIVEN that The Huntington National Bank has filed the attached motion to modify the automatic stay in the above-styled case.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the Court to grant the relief sought in the motion or if you do want the Court to consider your views on the motion, then within fourteen (14) days from the date of this notice you or your attorney must file with the Court a written request for a hearing explaining your position. File the request at:

Clerk, U.S. Bankruptcy Court  
United States Bankruptcy Court  
Southern District of West Virginia  
300 Virginia Street East, Room 3200  
Charleston, WV 25301

If you mail your request to the Court for filing, you must mail it early enough so the Court will **receive** it within fourteen (14) days from the date of this notice.

You must mail a copy of your request to:

Josef A. Horter, WWSB#1790  
BAILEY & WYANT, PLLC  
500 Virginia St. East Ste. 600  
Charleston, WV 25301

Megan A. Patrick, WWSB#12592  
KLEIN & SHERIDAN LC  
3566 Teays Valley Road  
Hurricane, WV 25526

Janet Smith Holbrook, WWSB#5853  
DINSMORE & SHOHL LLP  
611 Third Avenue  
Huntington, WV 25701

U.S. Trustee  
2025 United States Courthouse  
300 Virginia Street East  
Charleston, WV 25301

If you or your attorney do not file a request for hearing within fourteen (14) days, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without a hearing or further notice. If you or your attorney do file a request for hearing within fourteen (14) days, the Court will notify you of the time, date and place for a hearing on the motion, which you or your attorney must attend.

DATE: July 10, 2019

/s/ Josef A. Horter  
Josef A. Horter, #1790  
BAILEY & WYANT, PLLC  
500 Virginia St. East Ste. 600  
Charleston, WV 25301  
Phone (304) 345-4222  
E-Mail [jhorter@baileywyant.com](mailto:jhorter@baileywyant.com)

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**IN RE:**

**STEVEN GLYNNERIC FULSTONE,  
Debtor.**

**CASE NO. 19-30241  
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**MOTION OF THE HUNTINGTON NATIONAL BANK  
TO MODIFY AUTOMATIC STAY**

The Huntington National Bank, ("Huntington") by counsel, moves this Court for the entry of an Order modifying the automatic stay of Sec. 362 of the Bankruptcy Code (11 U.S.C. Sec. 362) and in support of this Motion asserts the following grounds:

1. The Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code, for which relief was entered on May 31, 2019.
2. The Debtor remains in possession of that certain property located at 2619 Scott Depot Road, Scott Depot, WV 25560 (the "property").
3. On May 29, 2018, the Debtor executed a Note in the amount of \$165,300.00 payable to The Huntington National Bank, which Note was secured by a Deed of Trust in the same amount and bearing the same date, which named Huntington as the nominee and beneficiary. A copy of the Deed of Trust is attached hereto.
4. On or about May 1, 2019, the Debtor defaulted in payments under the Note and Deed of Trust and has remained in default since this date
5. Pursuant to the Deed of Trust upon a default in the payment or performance of any of the obligations or of any covenant or liability contained in the Deed of Trust, the holder may, at its election, declare the entire amount of the indebtedness outstanding, due and payable at once and foreclose under its Deed of Trust.
6. The outstanding arrearages under the Note and Deed of Trust amounts to Two Thousand Four Hundred Fifty-Six and 14/100 Dollars (\$2,456.14) as of June 1, 2019, which does not include reimbursable fees and costs Huntington is entitled to under the Deed of Trust. The total outstanding indebtedness under the loan is approximately \$163,229.96.
7. Huntington is unaware if there is any equity in the property. However, the Debtor intends to surrender and vacate the property, intends not to make additional loan payments and has failed to pay current property taxes and property insurance.
8. Huntington is joined in this Motion by the Trustee and counsel for the Debtor.
9. If Huntington is not allowed to exercise rights and remedies under its Deed of Trust, they will suffer irreparable injury, loss and damage.
10. In the event Huntington forecloses under its Deed of Trust prior to bankruptcy closure, all surplus proceeds resulting from the foreclosure sale, if any, shall be delivered to the Trustee.

**WHEREFORE**, Huntington prays for the following relief:

- (a) The Court enter an Order modifying the automatic stay of § 362(a) of the Bankruptcy Code now in effect, so that Huntington may immediately exercise its rights of ownership pursuant to the Deed of Trust, and abandoning the bankruptcy estate's interest in the property in accordance with 11 U.S.C. § 554;
- (b) The Court enter an Order awarding possession of the property to Huntington;
- (c) The Court award Huntington all costs and fees incurred in this bankruptcy and this proceeding, pursuant to the terms of the Deed of Trust; and
- (d) The Court grant Huntington such other and further relief as it deems appropriate.

**THE HUNTINGTON NATIONAL BANK**  
By Counsel

/s/ Josef A. Horter  
Josef A. Horter, #1790  
BAILEY & WYANT, PLLC  
500 Virginia St. East Ste. 600  
Charleston, WV 25301  
Phone (304) 345-4222  
E-Mail [jhorter@baileywyant.com](mailto:jhorter@baileywyant.com)

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**CERTIFICATE OF SERVICE**

I, Josef A. Horter, do hereby certify that on this the 10<sup>th</sup> day of July, 2019, I served the attached "**NOTICE OF MOTION OF THE HUNTINGTON NATIONAL BANK TO MODIFY AUTOMATIC STAY**", "**MOTION OF THE HUNTINGTON NATIONAL BANK TO MODIFY AUTOMATIC STAY**", and "**AGREED ORDER GRANTING MOTION OF THE HUNTINGTON NATIONAL BANK TO MODIFY AUTOMATIC STAY**" upon counsel of record by

Electronic mail to:

Megan A. Patrick, Esq.  
[mpatrick@kswvlaw.com](mailto:mpatrick@kswvlaw.com)

Janet Smith Holbrook, Trustee  
[janet.holbrook@dinsmore.com](mailto:janet.holbrook@dinsmore.com)

U.S. Trustee  
[ustpreion04.ct.ecf@usdoj.gov](mailto:ustpreion04.ct.ecf@usdoj.gov)

And by depositing a true and accurate copy in the regular United States mail, postage prepaid, addressed as follows:

Steven Glynneric Fulstone  
2678 Scott Depot Road  
Scott Depot, WV 25560

/s/ Josef A. Horter  
Josef A. Horter, #1790  
BAILEY & WYANT, PLLC  
500 Virginia St. East Ste. 600  
Charleston, WV 25301  
Phone (304) 345-4222  
E-Mail [jhorter@baileywyant.com](mailto:jhorter@baileywyant.com)